IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.140 OF 2006
WITH
CIVIL APPLICATION NO.182 OF 2006

Samar Fahad Abdul Karim Samar. ..Appellant.

V/s.

Municipal Corpn.of Gr.Mumbai & Anr...Respondents.

Mr.A.M.Saraogi for appellant.

Mrs.Geeta Joglekar for Respondent-BMC.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 28, 2006.

P.C. :

1. Counsel for the Corporation states on instruction that the appropriate authority is considering the proposal submitted by the appellant for regularisation of the suit premises. If it is so, parties shall maintain status quo with regard to the suit property till disposal of the said application.

2. In view of this understanding, nothing would survives for consideration in the present appeal and for that matter in the suit instituted by the appellant before the trial court. The order which has been passed by the Assistant Commissioner, A-Ward

proceeds on the assumption that the regularisation application preferred by the appellant is already rejected, which fact now, as stated across the bar on behalf of the Corporation is incorrect. The appropriate authority is considering the said application as the appellant has complied with all the formalities as was called upon under the letter of appropriate authority. In that sense nothing will survive in the suit pending before the lower court. It is open to the parties to apply before the lower court to dispose of the suit, if so advised.

3. The issues arising from the proposed order to be passed by the appropriate authority on the regularisation application preferred by the appellant are left open to be agitated in the appropriate proceedings, as may be permissible and if resorted to by the appellant in that purpose.

4. If the order to be passed by the appropriate authority on the regularisation application is adverse to the appellant, the same shall not be given effect for the period of four weeks from the communication thereof to the appellant.

5. Appeal as well as civil application disposed

of on the above terms.